

REMARKS / ARGUMENTS

Applicants thank the Examiner for the final Office Action of April 16, 2007. Thus, Applicants respectfully request continued examination and allowance of the application.

Claim Rejections Under 35 U.S.C. § 102:

Claims 6-7 are rejected under 35 U.S.C. § 102(e) as being anticipated by Thieblin, et al. (U.S. Pat. No. 6,780,319). Applicants respectfully traverse the rejection because Thieblin, et al. fails to disclose all of the claim limitations, including ozone present in an ozone-containing gas at a level of at least about 2.5 mg per liter of the ozone-containing gas.

Applicants greatly appreciate the Examiner's explanation as to why he believes that the ozone concentration limitation of claim 7 is inherently disclosed by Thieblin. Their understanding of the Examiner's argument is as follows. If that understanding is incorrect, Applicants respectfully request the Examiner to please clarify any errors.

IF,

- U.S. 5,411,633 teaches that the maximum concentration of ozone that can be produced by an air-fed generator is 2-3%, and
- b) air has a density of 1.2 kg/m³,

THEN the ozone fed to loop 6 must have a density of 1,200 mg/L.

There is an unstated assumptions in such an argument. The Examiner assumes that an operator performing the Thieblin method would select the maximum ozone concentration achievable by an air-fed ozone generator.

Applicants kindly point out to the Examiner that operation of ozone generators may result in a wide range of concentrations. Indeed, U.S. 5,573,670 discloses injection of an ozone-containing gas with a very low ozone concentration (0.01 to 0.16% by weight of O₃ with respect to O₂).

The act of selecting the maximum ozone concentration achievable by an air-fed generator underlying the above assumption is not explicitly or implicitly disclosed in Thieblin. Rather, to the extent that Thieblin addresses this issue, it merely discloses

that the ozone may have a carrier gas of oxygen or air. Because the act underlying the Examiner's assumption is not present, the Examiner may not properly reject the claims under 35 U.S.C. 102(e) via the argument utilizing the assumption. Rather, the essential nature of the Examiner's rejection is really that of a 35 U.S.C. 103(a) rejection.

If the Examiner seeks to properly use Thieblin in an obviousness-type analysis, he must combine its teachings with other prior art teachings of air-fed ozone generators operated at their maximum ozone concentration. He must also point to some reason why one of ordinary skill in the art would modify the method of Thieblin to use an air-fed ozone generator operated at the maximum ozone concentration achievable. Thus, the Examiner has arbitrarily selected a specific operating condition for no stated reason to result in the claimed subject matter despite the fact that relevant prior art, such as U.S. 5,573,670, teaches the advantages of using a fairly low ozone concentration. This is the very essence of hindsight analysis.

Thus, Applicants respectfully assert that Thieblin et al. fails to disclose the claimed ozone concentration in the ozone-containing gas. As such, the rejection should be withdrawn.

Claim Rejections Under 35 U.S.C. § 103:

Claims 8-13 are rejected under 35 U.S.C. § 103(a) as being obvious over Thieblin, et al. Applicants respectfully traverse the rejection because Thieblin et al. fails to disclose all of the claimed limitations as explained above.

Should the examiner believe a telephone call would expedite the prosecution of the application, he is invited to call the undersigned attorney at the number listed below. It is not believed that no fee is due at this time. An Information Disclosure Statement and Request for Continued Examination has been contemporaneously submitted with this Request for Reconsideration along with the associated fees. Otherwise, it is believed that no other fee is due at this time. If that belief is incorrect, please debit deposit account number 01-1375. Also, the Commissioner is authorized to credit any overpayment to deposit account number 01-1375.

Respectfully submitted,

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